

BEFORE THE
TENNESSEE STATE BOARD OF EQUALIZATION

<i>In Re:</i>	Charging Systems International)	
	Personal Property Account No. 098444)	Davidson County
	Tax years 2003, 2004, 2005)	

INITIAL DECISION AND ORDER

Statement of the Case

These are direct appeals to the State Board of Equalization ("State Board") pursuant to Tenn. Code Ann. section 67-1-1005(b) from the following back assessments/reassessments of the subject property:

Tax Year	Original Assessment	Revised Assessment	Back Assessment/ Reassessment
2003	\$27,466	\$221,038	\$193,572
2004	\$33,509	\$229,622	\$196,113
2005	\$41,578	\$363,875	\$322,297

The undersigned administrative judge conducted a hearing of this matter on August 14, 2007 in Nashville. The appellant, Charging Systems International ("CSI"), was represented by John C. Hess, Esq. (Hermitage, TN). Kenneth Vinson, an employee of the Davidson County Property Assessor's office, appeared on the Assessor's behalf.

Findings of Fact and Conclusions of Law

CSI has engaged in the business of manufacturing marine and other specialty battery chargers (mainly for bass boats) since 1989. The company moved from a smaller building to its present location at 1551 Heil Quaker Blvd in Lavergne in July, 2005.

In each of the tax years under appeal, CSI failed to file a tangible personal property schedule with the Assessor's office by the March 1 statutory deadline. As a result, the Assessor made forced assessments of the subject property in the amounts shown above in the "original assessment" column. None of those assessments was contested before the Metropolitan Board of Equalization.

The Assessor subsequently selected this non-reporting account for audit under authority of State Board Rule 0600-5-.05. As explained by Michelle Pierce of Tax Management Associates (“TMA”), the auditor discovered on CSI’s balance sheet as of December 31, 2004 an entry of \$1,078,616 for assets listed as “inventory, raw materials.” That entry, which accounted for virtually all of the ensuing back assessment/reassessment for tax year 2005 (\$322,297), represented approximately 74% of the gross inventory reported by CSI on its 2004 corporate tax returns (\$1,453,154). Not having been supplied any prior financial statements, TMA estimated

the value of CSI's assessable raw materials inventory for the tax years 2003 and 2004 (\$689,603 and \$722,116, respectively) on a like percentage basis. Exhibit 4.

In these appeals, CSI disputes the pickup of certain items which were booked as inventory (raw materials) due to what Mr. Hess called a "serious failure of communication" with the company's certified public accountant. CSI president Johnny Brannon categorized these allegedly non-taxable articles as "returned items that need repair"; "obsolete components"; and "components from returned chargers." In a recapitulation prepared for the hearing, he posited total values for each of these three categories at the *end* of the years 2003, 2004, and 2005. Exhibits 1—3, respectively

Ironically, according to Mr. Brannon's testimony, the back assessments/reassessments under appeal stemmed mostly from CSI's efforts to build a more reliable product. The company introduced a new model containing a "low profile" capacitor in August, 2002. In the spring of the following year, CSI started to experience a markedly higher rate of returns of battery chargers still under warranty.¹ Around May, 2003, this increase was traced to an inaccurate temperature rating of the shorter capacitor. CSI corrected this production problem in the first week of June, 2003; however, by then, the company was so "overwhelmed" by the volume of returns that it wound up having to send brand new "replacement" battery chargers to meet the demand — meanwhile accumulating a stockpile of goods which might or might not turn out to be defective or unusable.

Article II, section 28 of the Tennessee Constitution provides that "all property real, personal or mixed shall be subject to taxation" unless exempted by the legislature. All business or professional entities must file annually with the assessor on the prescribed form a complete list of the tangible personal property used or held for use in their business or profession, excluding *inventories of merchandise held for sale or exchange*.² Tenn. Code Ann. section 67-5-903. In keeping with the cited constitutional provision, the General Assembly has expressed the intent that inventories of merchandise held for sale or exchange, which are taxable under the Business Tax Act, not be subject to ad valorem taxation. Tenn. Code Ann. section 67-4-701(b).

Among the types of personal property commonly referred to as "inventory" which are taxable in this state are *raw materials*. State Board Rule 0600-5-.01(8) defines "raw materials" as "items of tangible personal property, crude or processed, which are held or maintained by a manufacturer for use through refining, combining, or any other process in the production or fabrication of another item or product."

¹Mr. Brannon testified that CSI has customarily exceeded the written terms of its warranty policy by shipping a replacement unit immediately upon confirmation of a product failure, rather than making the customer await completion of the repair process.

²As defined in Tenn. Code Ann. section 67-5-901(b), the italicized term "includes tangible personal property held for lease or rental."

As the party seeking to change the current assessments of the subject property, CSI has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

Counsel for the appellant conceded at the hearing that Mr. Brannon's testimony and the exhibits thereto did not purport to identify the tangible personal property which was used (or held for use) in CSI's business as of *January 1, 2003*. Hence the back assessment/reassessment for that tax year must be completely sustained. See Tenn. Code Ann. section 67-5-504(a).

With respect to tax years 2004 and 2005, there is no dispute that the personal property in question physically remained on CSI's premises. The fact that CSI may not have actually used such property for business purposes since 2003 does not, of course, mean that it is not assessable. To be sure, any returned battery chargers which were found (upon testing) not to be defective would have been exemptible as *finished goods* in the hands of a manufacturer. Further, any components of returned chargers which were demonstrably neither capable of use nor repairable would appropriately have been assigned a minimal *scrap* value. But the evidence of record does not satisfactorily establish the extent (if any) to which these returned items met either of these descriptions on the January 1, 2004 or January 1, 2005 assessment dates. Rather, from Mr. Brannon's own narrative, it appears that CSI had not then yet determined whether those assets could legitimately be charged off under generally accepted accounting principles.

Consequently, in the opinion of the administrative judge, relief from the 2004 and 2005 back assessments/reassessments must be limited to revaluation of the obsolete parts (for which there presumably would have been no expectation of use or repair) as scrap.³ The resulting reductions in the appraisals of the subject property would be \$82,162 for tax year 2004 (i.e., 98% of the total value of "obsolete components" indicated in Exhibit 1) and \$85,263 for tax year 2005 (i.e., 98% of the total value of "obsolete components" indicated in Exhibit 2).

Order

It is, therefore, ORDERED that the subject property be valued as follows:

TAX YEAR	APPRAISAL	ASSESSMENT
2003	\$ 736,794	\$221,038
2004	\$ 683,246	\$204,973
2005	\$1,127,654	\$338,296

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of

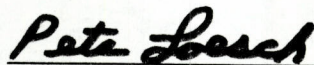
³The standard valuation of scrap under the schedule prescribed in Tenn. Code Ann. section 67-5-903(f) is two percent (.02) of original cost.

the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 31st day of August, 2007.



PETE LOESCH
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

cc: John C. Hess, Attorney, John C. Hess, P.C.
Jo Ann North, Davidson County Assessor of Property

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